



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.17509 of 2019

and

W.M.P. (MD) No.13997 of 2019

Therur Thenkumari Inland Fisherman
Co-operative Society
Limited No.F.N.L.9,
rep. by the President, V.Arumugam

...Petitioner

-Vs-

1.The Secretary to Government,
Animal Husbandry and Fisheries Department,
For St. Goerge,
Chennai - 600 009.

2.The Director of Fisheries,
Directorate of Fisheries Administrative
Office Buildings,
DMS Complex, Teynampet,
Chennai - 600 006.

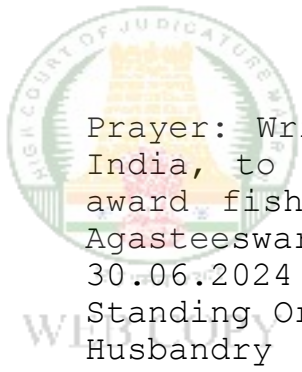
3.The District Collector,
Kanyakumari District
at Nagercoil.

4.The Assistant Director of Fisheries,
Distillery Road, Vadaseri,
Nagercoil,
Kanyakumari District.

5.The Tahsidlar,
Agasteeswaram Taluk,
@ Nagercoil,
Kanyakumari.

6.The Executive Engineer,
Public Works Department,
Nagercoil,
Kanyakumari District.

...Respondents



Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to award fishing lease to the petitioner society over the tanks in Agasteeswaram Taluk, Kanyakumari District from 01.7.2019 to 30.06.2024 (Fasli year 1430 to 1434) by implementing the Revenue Standing Order-211 and the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries Department dated 17.11.1993 in its letter and spirit based on the representation of the petitioner dated 04.06.2019.

For Petitioner : Mr.AR.L.Sundaresan,
Senior counsel
for Mr.D.Srinivasaragavan

For Respondents : Mr.B.Bhagawathy, G.A.

ORDER

The prayer in this writ petition is for a Writ of Mandamus, directing the respondents to award fishing lease to the petitioner society over the tanks in Agasteeswaram Taluk, Kanyakumari District from 01.7.2019 to 30.06.2024 (Fasli year 1430 to 1434) by implementing the Revenue Standing Order-211 and the Government Order in G.O.Ms.No.332, Animal Husbandry and Fisheries Department dated 17.11.1993 in its letter and spirit based on the representation of the petitioner dated 04.06.2019.

2.Heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for Mr.D.Srinivasaragavan, learned counsel appearing for the petitioner and Mr.B.Bhagawathy, learned Government Advocate appearing for the respondents.

3.The petitioner is a Fishermen Society and it has already been given the fishing rights to a number of tanks at Agasteeswaram Taluk and the said lease period came to an end by 30.06.2019. Therefore, in order to give further period of 5 years of fishing right to the petitioner Society, the petitioner had given representation on 04.06.2019 to the 5th respondent.

4.In this context, it is the submission of the learned Senior Counsel appearing for the petitioner that, since the petitioner is a Co-operative Society consisting of number of Fishermen, to the welfare of them since the petitioner Society is running, preferential right has to be given to the Co-operative Societies, in view of the policy of the Government, which is reflected in G.O.Ms.No.332, Animal Husbandry and Fisheries Department dated 17.11.1993. Under the said Government Order, fishing right can be conferred to Co-operative Societies on preferential basis, based on the Revenue Standing Order 211, which reads thus:



"The lease should be given in the following order of preference:-

- (i) Co-operative Societies of fishermen or of Harijans engaged in fishing;
- (ii) Panchayat of the locality;
- (iii) Private individuals as determined by the results of public auction."

5. In this context, the learned Senior Counsel also pointed out that, the said preferential treatment given to Co-operative Societies was questioned by this Court, where, ultimately, the Division Bench of this Court decided, in W.A.(MD) No.384 of 2017 in the matter of **A.G.Palanichamy Vs. The Government of Tamil Nadu, rep. by Secretary to Government, Animal Husbandry and Fisheries Department, Fort St. George, Chennai - 600 009 and 3 others**, by order dated 16.11.2017, that such a preferential treatment since has been made through the G.O.Ms.No.332, which is a policy of the Government, based on such policy of the Government through the said Government Order, preference has to be given to the Co-operative Fishermen Societies.

6. The said Division Bench order has become final as Special Leave Petition filed in Special Leave to Appeal (C) No.3171 of 2018 against the said order was also dismissed on 12.02.2018. Therefore, the learned Senior Counsel appearing for the petitioner would submit that, the policy of the Government, based on the Revenue Standing Order referred to above extracted in the said Government Order, is to give preference to Co-operative Societies of Fishermen for fishing right by way of preferential treatment and therefore, since the petitioner is a Co-operative Society of Fishermen, which has already been given such leasehold right for the tanks in Agasteeswaram Taluk for a period of 5 years from 01.06.2014 to 30.06.2019, the petitioner's further request to give such lease hold right of fishing for further 5 years to be decided.

7. I have heard the learned Government Advocate appearing for the respondents, who would submit that, in view of the said legal position and the factual matrix of this case, the representation of the petitioner dated 04.06.2019 to the 5th respondent would be decided on merits and in accordance with law, especially, in the context of the policy decision of the State Government reflected through the Government Order referred to above as well as the Revenue Standing Order 211 and such decision would be taken within a time frame to be stipulated by this Court.

8. Having regard to the said facts of this case, this Court is inclined to dispose of this writ petition, with the consent of both the parties, at the stage of admission itself, with the following direction:



"The respondents, especially, the respondents 3 and 5 are hereby directed to consider the representation of the petitioner dated 04.06.2019 in the light of G.O.Ms.No.332, Animal Husbandry and Fisheries Department, dated 17.11.1993 and also the Revenue Standing Order 211 under the heading 'Fisheries' and pass orders thereon, on merits and in accordance with law, with regard to the lease of the petitioner for the further period to be decided by the respondents and such final orders shall be passed within a period of 6 weeks from the date of receipt of a copy of this order".

9. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Secretary to Government,
Animal Husbandry and Fisheries Department,
For St. George,
Chennai - 600 009.
2. The Director of Fisheries,
Directorate of Fisheries Administrative
Office Buildings,
DMS Complex, Teynampet,
Chennai - 600 006.
3. The District Collector,
Kanyakumari District
at Nagercoil.
4. The Assistant Director of Fisheries,
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Nagercoil,
Kanyakumari District.
5. The Tahsidlar,
Agasteeswaram Taluk,
@ Nagercoil,
Kanyakumari.



6.The Executive Engineer,
Public Works Department,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-81267[F] dated
13/08/2019)

Order made in
W.P. (MD) No.17509 of 2019
and
W.M.P. (MD) No.13997 of 2019
Dated:
08.08.2019

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JM/28.08.2019/5P/8C